

REMARKS

Claims 1, 6, 7 and 13-28 are currently pending in the present application. Claims 1, 6, 13-16 and 21 have amended herein. Claims 2 and 8-10 have been cancelled. New claims 22-28 have been added. Support for the present claim amendments may be found, at least, on page 6, the second full paragraph and page 22, subsection (2.) of the specification. Applicants submit that no new matter has been added by way of the present claim amendments.

Applicants kindly thank the Examiner for the courtesy of a personal interview with Applicants' representatives on September 27, 2007. The substance of the interview was set forth in the Examiner's Interview Summary. Applicants sincerely hope that the present response will fully resolve the outstanding issues in the present application.

Rejections under 35 U.S.C. §112, Second Paragraph

Claims 1, 2 and 6-21 are rejected under 35 U.S.C. §112, second paragraph as being indefinite.

While not acquiescing to the Examiner's rejection of claim 1, regarding the phrase "wherein the terminal of the alkyleneoxy group is a hydroxyl group or an alkyl group having 1 to 30 carbon atoms so as to be an ether bond" in lines 13-14 of claim 1, Applicants have deleted the noted language from the claim.

Regarding claim 8, the Examiner states that "the segment (b) thereof is a nonionic polymer chain" does not properly further limit claim 1. Claim 8 has been cancelled herein, thus the Examiner's rejection has been rendered moot.

With regard to claims 9 and 10, the Examiner states that “(said segment(b) of) a vinyl monomer having a carboxyl group or a salt thereof” does not properly further limit claim 1. Claims 9 and 10 have been cancelled herein, thus the Examiner’s rejection has been rendered moot.

Applicants submit that each of the Examiner’s concerns of record have been rendered moot. Accordingly, Applicants respectfully request withdrawal of the outstanding rejections of the claims.

Rejections under 35 USC §103(a)

Claims 1, 2 and 6-21 stand rejected under 35 U.S.C. § 103 as being unpatentable over **Takiguchi et al. US 7,105,477** (Takiguchi US ‘477).

Applicants respectfully traverse the above rejection.

Legal Standard for Determining Prima Facie Obviousness

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

“There are three possible sources for a motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary

skill in the art.” *In re Rouffet*, 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1457-58 (Fed. Cir. 1998) (The combination of the references taught every element of the claimed invention, however without a motivation to combine, a rejection based on a *prima facie* case of obvious was held improper.). The level of skill in the art cannot be relied upon to provide the suggestion to combine references. *Al-Site Corp. v. VSI Int'l Inc.*, 174 F.3d 1308, 50 USPQ2d 1161 (Fed. Cir. 1999).

“In determining the propriety of the Patent Office case for obviousness in the first instance, it is necessary to ascertain whether or not the reference teachings would appear to be sufficient for one of ordinary skill in the relevant art having the reference before him to make the proposed substitution, combination, or other modification.” *In re Linter*, 458 F.2d 1013, 1016, 173 USPQ 560, 562 (CCPA 1972).

Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. “The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art.” *In re Kotzab*, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). See also *In re Lee*, 277 F.3d 1338, 1342-44, 61 USPQ2d 1430, 1433-34 (Fed. Cir. 2002) (discussing the importance of relying on objective evidence and making specific factual findings with respect to the motivation to combine references); *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

The Supreme Court of the United States has recently held that the teaching, suggestion, motivation test is a valid test for obviousness, but one which cannot be too rigidly applied. See *KSR Int'l Co. v. Teleflex Inc.*, No. 04-1350, slip op. at 11 (U.S. April 30, 2007).

The Supreme Court in *KSR Int'l Co. v. Teleflex, Inc.*, No. 04-1350 (U.S. April 30, 2007) reaffirmed the Graham factors in the determination of obviousness under 35 U.S.C. § 103(a). The four factual inquiries under Graham are:

- (a) determining the scope and contents of the prior art;
- (b) ascertaining the differences between the prior art and the claims in issue;
- (c) resolving the level of ordinary skill in the pertinent art; and
- (d) evaluating evidence of secondary consideration.

Graham v. John Deere, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966).

The Court in *KSR Int'l Co. v. Teleflex, Inc.*, *supra.*, did not totally reject the use of "teaching, suggestion, or motivation" as a factor in the obviousness analysis. Rather, the Court recognized that a showing of "teaching, suggestion, or motivation" to combine the prior art to meet the claimed subject matter could provide a helpful insight in determining whether the claimed subject matter is obvious under 35 U.S.C. § 103(a).

Even so, the Court in *KSR Int'l Co. v. Teleflex, Inc.*, *ibid.*, rejected a rigid application of the "teaching, suggestion, or motivation" (TSM) test, which required a showing of some teaching, suggestion, or motivation in the prior art that would lead one of ordinary skill in the art to combine the prior art elements in the manner claimed in the application or patent before holding the claimed subject matter to be obvious.

The Advantages of the Present Invention

The present invention relates to a liquid detergent composition which is excellent in detergent power, has a low viscosity to be easily handled, is good at stability, is inexpensive, and exhibits no increased viscosity even if the composition is mixed with a small amount of water. The inventive composition contains a nonionic surfactant, water and an electrolytic salt and is separated into two or more phases of a surfactant phase including a nonionic surfactant and an aqueous solution phase including an electrolytic salt. The phases are incompatible with each other, with increased stability and a low viscosity. The present inventors have surprisingly and unexpectedly found that use of a specific polymer makes it possible to produce an emulsion composition wherein droplets are stabilized.

Distinctions Between the Present Invention and the Cited Prior Art

Applicants respectfully submit that Takiguchi US '477 does not disclose or suggest the presently claimed invention.

The invention of Takiguchi US '477 refers to a liquid detergent composition having less water and in which surfactants are uniformly dissolved as the liquid dispersion medium. Takiguchi US '477 expressly discloses that "the liquid dispersion medium is constituted of a liquid and component dissolved in the liquid, contains a surfactant as its essential component" (see column 7, lines 22-24).

In contrast, the present invention relates to a liquid detergent composition having a higher water content and in which a surfactant phase is present as droplets in the aqueous solution phase (i.e., emulsion type). Furthermore, the present invention does not exhibit increased viscosity,

even if the composition is mixed with a small amount of water (see at page 2, line 22 through page 3, line 1 of the present specification), which facilitates the use of the claimed composition.

The Examiner points out at page 3, lines 6-7 in the Office Action, that Takiguchi US '477 teaches employing up to 40 mass % of water at col. 7, lines 22-27. Applicants respectfully disagree with the Examiner's characterization of the Takiguchi US '477 disclosure. In Takiguchi US '477, column 7, lines 22-27 refers instead to the water content in a liquid dispersion medium, not in the liquid detergent composition.

In short, the composition of Takiguchi US '477 has a continuous phase of a nonionic surfactant, while the composition of the present invention has a continuous phase of water and has droplets of a nonionic surfactant in the water. Takiguchi US '477 does not teach or suggest an emulsion composition according to the presently claimed invention. Therefore, Applicants respectfully request reconsideration and withdrawal of the outstanding rejection.

Double Patenting Rejection

Claims 1, 2 and 6-21 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-13 of USP 7,105,477.

In light of the above arguments pertaining to the non-obviousness of the presently claimed invention, Applicants respectfully submit that the outstanding obviousness-type double patenting rejection is improper. Applicants respectfully request reconsideration and withdrawal thereof.

New Claims

Claims 22-28 are newly added herein. Applicants respectfully submit that claims 22-28 are patentably distinct from Takiguchi US '477 for, at least, the reasons discussed above.

In view of the foregoing, Applicants believe the pending application is in condition for allowance. A Notice of Allowance is earnestly solicited.

Conclusion

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Monique T. Cole, Reg. No. 60,154 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,



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